

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 GIOVANNI T. BOLOTAOLO,

11 Plaintiff,

v.

12 DIVISION OF CHILD SUPPORT,

13 Defendant.

CASE NO. C18-5351 RBL

ORDER DENYING MOTION FOR
PROCEED IN FORMA PAUPERIS

14 THIS MATTER is before the Court on Plaintiff Bolotaolo's Motion for Leave to Proceed
15 *in forma pauperis* [Dkt. # 2], supported by his Proposed Complaint [Dkt. # 1].

16 A district court may permit indigent litigants to proceed *in forma pauperis* upon
17 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The Court has broad
18 discretion in resolving the application, but “the privilege of proceeding *in forma pauperis* in civil
19 actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.
20 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed *in*
21 *forma pauperis* at the outset if it appears from the face of the proposed complaint that the action
22 is frivolous or without merit.” *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir.
23 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint

1 is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778
2 F.2d 527, 529 (9th Cir. 1985); *see also Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

3 A *pro se* Plaintiff’s complaint is to be construed liberally, but like any other complaint it
4 must nevertheless contain factual assertions sufficient to support a facially plausible claim for
5 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Bell*
6 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A
7 claim for relief is facially plausible when “the plaintiff pleads factual content that allows the
8 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”
9 *Iqbal*, 556 U.S. at 678.

10 The Court allows litigants to proceed *in forma pauperis* only when they have sufficiently
11 demonstrated an inability to pay the filing fee. This generally includes incarcerated individuals
12 with no assets and persons who are unemployed and dependent on government assistance. *See,*
13 *e.g., Ilagan v. McDonald*, 2016 U.S. Dist. LEXIS 79889, at *2 (D. Nev. June 16, 2016) (granting
14 petition based on unemployment and zero income); *Reed v. Martinez*, 2015 U.S. Dist. LEXIS
15 80629, at *1, 2015 WL 3821514 (D. Nev. June 19, 2015) (granting petition for incarcerated
16 individual on condition that applicant provides monthly payments towards filing fee). It does not
17 include those whose access to the court system is not blocked by their financial constraints, but
18 rather are in a position of having to weigh the financial constraints pursuing a case imposes. *See*
19 *Sears, Roebuck & Co. v. Charles W. Sears Real Estate, Inc.*, 686 F. Supp. 385, 388 (N.D. N.Y.),
20 *aff’d*, 865 F.2d 22 (2d Cir. 1988) (denying petition to proceed IFP because petitioner and his
21 wife had a combined annual income of between \$34,000 and \$37,000).

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1 Bolotaolo's Motion is DENIED, for two reasons. First, he has not shown that he is
2 indigent; he has shown the opposite. He is employed, has assets, and "takes home" \$5500 per
3 month.

4 Second, even if he were indigent his complaint in this matter does not state a plausible
5 claim, for anything. It is not at all clear what he is complaining about, or what he wants.

6 In any event, plaintiff shall pay the filing fee in this case within 21 days, or the matter
7 will be DISMISSED.

8 IT IS SO ORDERED.

9 Dated this 15th day of May, 2018.

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11 Ronald B. Leighton

12 Ronald B. Leighton
13 United States District Judge